

**A Resolution to amend the Death Benefit
Resolution adopted January 26, 1993 to clearly define the
intended recipient(s) of the \$100k Line-of-Duty Death Benefit
by replacing the term "legal dependents" with "spouse and
minor children" and adding the stipulation that such
recipient(s) be paid "in equal shares"**

WHEREAS, the Death Benefit Resolution adopted January 26, 1993 does not clearly define the intended recipient(s) of the \$100k Line-of-Duty Death Benefit.

WHEREAS, a clear definition of the intended recipient(s) of such Death Benefit is needed to enforce the resolution.

WHEREAS, a clear definition of the intended recipient(s) of such Death Benefit is necessary for setting the appropriate insurance coverage.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis, that the Death Benefit Resolution adopted January 26, 1993, attached hereto and incorporated herein by reference, be amended to replace the term "legal dependent" with "spouse and minor children."

BE IT FURTHER RESOLVED, that such resolution be amended to add the term "in equal shares" after the term "One Hundred Thousand Dollars (\$100,000)."

BE IT FURTHER RESOLVED, that this Resolution take effect once adopted.

R E S O L U T I O N

WHEREAS, the City of Memphis wishes to continue to provide a death benefit to the families of employees killed in the line of duty; AND

WHEREAS, the death benefit has not been increased since 1969; and

WHEREAS, the Mayor recommends that the benefit be increased to better represent present day benefits.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Memphis, that it is the policy of the City of Memphis that whenever an employee of the City of Memphis is killed in the line of duty the the legal dependents of such employee, shall be paid the amount of One Hundred Thousand Dollars (\$100,000), in addition to the death benefits as provided by the City's Personnel Manual.

Authorization for such death benefits and the method of payment thereof shall be the subject of separate and specific resolutions of the council of the City of Memphis following an investigation and recommendation as to each case by the City Attorney.

BE IT FURTHER RESOLVED, That this Resolution take effect from and after January 1, 1993.

BE IT FURTHER RESOLVED That previous Resolution of May 13, 1969, be and the same is hereby revoked.

I hereby certify that the foregoing is a true copy
and document was adopted, approved by the
Council of the City of Memphis in regular
session on

Date JAN 26 1993


Deputy Comptroller - Council Records

This is a resolution is to repair and replace certain inlets and drainage pipes in a City alley in the vicinity of 656 Madison Avenue Rear Alley.

WHEREAS, the Council of the City of Memphis approved Major Drainage Rehab/Replace, project number ST03006, as part of the Public Works Fiscal Year 2013 Capital Improvement Budget; and

WHEREAS, bids were taken on November 9, 2012 to repair and replace certain inlets and drainage pipes in a City alley in the vicinity of 656 Madison Avenue Rear Alley with the lowest complying bid of two bids being \$32,767.50 submitted by Ensco, LLC; and

WHEREAS, it is necessary to transfer an allocation of \$35,379.00 funded by G O Bonds – General (Storm Water) from Major Drainage Rehab/Replace, project number ST03006, Tanyard-650 Madison Alley project number ST03159; and

WHEREAS, it is necessary to appropriate \$35,379.00 funded by G O Bonds – General (Storm Water) in Tanyard-650 Madison Alley, project number ST03159 as follows:

Contract Amount	32,768.00
Project Contingencies	\$ <u>2,611.00</u>
Total Amount	\$35,379.00

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the Fiscal Year 2013 Capital Improvement Budget be and is hereby amended by transferring an allocation of \$35,379.00 funded by G O Bonds – General (Storm Water) from Major Drainage Rehab/Replace, project number ST03006, to Tanyard-650 Madison Alley, project number ST03159.

BE IT FURTHER RESOLVED, that there be and is hereby appropriated the sum of \$35,379.00 funded by G O Bonds – General (Storm Water) chargeable to the FY 2013 Capital Improvement Budget and credited as follows:

Project Title	Tanyard-650 Madison Alley
Project Number	ST03159
Total Amount	\$35,379.00



Memphis City Council Summary Sheet

1. Description of the Item (Resolution, Ordinance, etc.)

This item is a Resolution approving an amendment of a lease agreement with Elliott AmQuip LLC to extend the lease for two additional years with an additional option for two years. The resolution was approved by the Board of Commissioners of the Memphis and Shelby County Port Commission on August 15, 2012.

2. Initiating Party (e.g. Public Works, at request of City Council, etc.)

Memphis and Shelby County Port Commission

3. State whether this is a change to an existing ordinance or resolution, if applicable.

This is not a change to an existing ordinance or resolution.

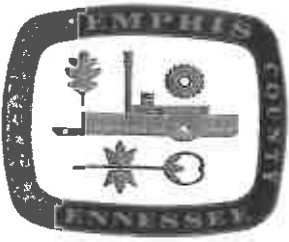
4. State whether this requires a new contract, or amends an existing contract, if applicable.

This amends the lease agreement dated April 20, 2010. The amendment extends the lease agreement for two additional years with an additional option for two years.

5. State whether this requires an expenditure of funds/requires a budget amendment.

This does not require expenditure of funds nor a budget amendment.

City Council Resolution Template – 8-28-12



A Resolution to Approve Amendment to Lease Agreement with Elliott Amquip LLC, as Approved by the Board of Commissioners of the Memphis and Shelby County Port Commission on August 15, 2012.

WHEREAS, on or about April 20, 2010, the Memphis and Shelby County Port Commission along with the City of Memphis and the County of Shelby entered into a Lease Agreement with Elliott Amquip LLC providing that Elliott lease certain premises for a period beginning June 1, 2010 and terminating on May 31, 2013, such premises being Lots 101 to 104 in the Memphis and Shelby County Industrial Subdivision; and

WHEREAS, Elliott has requested that its tenancy be extended two additional years with an additional option for two years thereafter, thus continuing the Lease through and until May 31, 2015 upon the annual rental as determined in the original Lease Agreement between the parties. Otherwise, the original Lease Agreement shall remain intact.

WHEREAS, said proposed amendment to the Lease Agreement providing for additional tenancy is in the best interest of the Memphis and Shelby County Port Commission and the City of Memphis and County of Shelby and promotes the development of Presidents Island as well as the economic advancement of the community in general. .

NOW, THEREFORE, BE IT RESOLVED by the Memphis and Shelby County Port Commission that the proposed Amendment to Lease Agreement with Elliott Amquip LLC be and hereby is approved.

BE IT FURTHER RESOLVED, By the Council of the City of Memphis that the appropriate officials of the City of Memphis be hereby authorized to execute same.

BE IT FURTHER RESOLVED, That this action is subject to concurrence by Shelby County.

PORT COMISSION RESOLUTION

WHEREAS, on or about April 20, 2010, the Memphis and Shelby County Port Commission along with the City of Memphis and the County of Shelby entered into a Lease Agreement with Elliott Amquip LLC providing that Elliott lease certain premises for a period beginning June 1, 2010 and terminating on May 31, 2013, such premises being Lots 101 to 104 in the Memphis and Shelby County Industrial Subdivision; and

WHEREAS, Elliott has requested that its tenancy be extended two additional years with an additional option for two years thereafter, thus continuing the Lease through and until May 31, 2015 upon the annual rental as determined in the original Lease Agreement between the parties. Otherwise, the original Lease Agreement shall remain intact.

WHEREAS, said proposed amendment to the Lease Agreement providing for additional tenancy is in the best interest of the Memphis and Shelby County Port Commission and the City of Memphis and County of Shelby and promotes the development of Presidents Island as well as the economic advancement of the community in general.

NOW, THEREFORE, BE IT RESOLVED by the Memphis and Shelby County Port Commission that the proposed Amendment to Lease Agreement with Elliott Amquip LLC be and hereby is approved. The appropriate officials are authorized to execute same.

BE IT FURTHER RESOLVED that the City of Memphis and County of Shelby are respectfully requested to approve said Amendment.

I hereby certify that the foregoing is a true copy and said document was adopted/granted by the Memphis and Shelby County Port Commission on the 15th day of August, 2012.


Secretary/Treasurer

RESOLUTION

WHEREAS, the City of Memphis Division of Fire Services has received grant funds in the amount of One Million Four Hundred Thousand Dollars (\$1,400,000.00) from the Inland Rivers Ports and Terminals' FY2008 Port Security Grant Program; and

WHEREAS, these grant funds represent 100% in federal share for one foam pumper and 75% for a second foam pumper. The City of Memphis Division of Fire Services must fund a 25% match in the amount of Two Hundred Thousand Dollars (\$200,000.00); and

WHEREAS, it is necessary to accept the grant funding and amend the Fiscal Year 2013 Operating Budget to establish funds for the 2008 Port Security Grant Program; and

WHEREAS, it is necessary to appropriate the grant funds in the amount of One Million Six Hundred Thousand Dollars (\$1,600,000.00) for the 2008 Port Security Grant.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the 2008 Port Security Grant Program funds in the amount of One Million Four Hundred Thousand Dollars (\$1,400,000.00) be accepted by the City of Memphis.

BE IT FURTHER RESOLVED, that the Fiscal Year 2013 Operating budget be and is hereby amended by appropriating the Expenditures and Revenues for the 2008 Port Security Grant Program in the amount of One Million Six Hundred Thousand Dollars (\$1,600,000.00) as follows:

Revenue

Local Other Grant	\$1,400,000.00
Operating Transfer In – General Fund	\$ 200,000.00

Expenses

Equipment	\$1,600,000.00
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RESOLUTION

WHEREAS, the City of Memphis Division of Fire Services has received grant funds in the amount of One Million Five Hundred Nineteen Thousand Two Hundred Thirty-Three Dollars (\$1,519,233) from the Inland Rivers Ports and Terminals' FY2009 Port Security Grant Program; and

WHEREAS, these grant funds represent 100% in federal share for emergency electrical generator, foam pumper, fire boat design, training for fire boat, and responders exposure suits and interoperable radios; and

WHEREAS, it is necessary to accept the grant funding and amend the Fiscal Year 2013 Operating Budget to establish funds for the 2009 Port Security Grant Program; and

WHEREAS, it is necessary to appropriate the grant funds in the amount of One Million Five Hundred Nineteen Thousand Two Hundred Thirty-Three Dollars (\$1,519,233) for the 2009 Port Security Grant.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the 2009 Port Security Grant Program funds in the amount of One Million Five Hundred Nineteen Thousand Two Hundred Thirty-Three Dollars (\$1,519,233) be accepted by the City of Memphis.

BE IT FURTHER RESOLVED, that the Fiscal Year 2013 Operating budget be and is hereby amended by appropriating the Expenditures and Revenues for the 2009 Port Security Grant Program in the amount of One Million Five Hundred Nineteen Thousand Two Hundred Thirty-Three Dollars (\$1,519,233) as follows:

Revenue

Local Other Grant	\$1,519,233.00
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Expenses

Equipment	\$ 986,800.00
Seminars/Train/Education	\$ 232,433.00
Architectural/Engineering	\$ 300,000.00

RESOLUTION

WHEREAS, the City of Memphis Division of Fire Services has received grant funds in the amount of One Million Three Hundred Forty-Two Thousand One Hundred Seventy-Three Dollars (\$1,342,173) from the Inland Rivers Ports and Terminals' FY2010 Port Security Grant Program; and

WHEREAS, these grant funds represent 100% in federal share for a counterterrorism boat; and

WHEREAS, it is necessary to accept the grant funding and amend the Fiscal Year 2013 Operating Budget to establish funds for the 2010 Port Security Grant Program; and

WHEREAS, it is necessary to appropriate the grant funds in the amount of One Million Three Hundred Forty-Two Thousand One Hundred Seventy-Three Dollars (\$1,342,173) for the 2010 Port Security Grant.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the 2010 Port Security Grant Program funds in the amount of One Million Three Hundred Forty-Two Thousand One Hundred Seventy-Three Dollars (\$1,342,173) be accepted by the City of Memphis.

BE IT FURTHER RESOLVED, that the Fiscal Year 2013 Operating budget be and is hereby amended by appropriating the Expenditures and Revenues for the 2010 Port Security Grant Program in the amount of One Million Three Hundred Forty-Two Thousand One Hundred Seventy-Three Dollars (\$1,342,173) as follows:

Revenue

Local Other Grant	\$1,342,173.00
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Expenses

Equipment	\$1,342,173.00
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Resolution to transfer allocations and appropriations from Treasury System Upgrade to Various Capital Improvement Projects funded by G O Bonds – General.

WHEREAS, the Council of the City of Memphis approved Treasury System Upgrade, project number IS01053; and

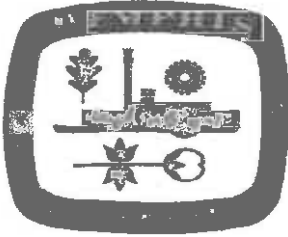
WHEREAS, Treasury System Upgrade will not be completed and it is necessary to transfer these funds to various capital improvement projects which will be used for the local match for grant projects as well as other urgent projects; and

WHEREAS, it is necessary to transfer construction allocations and appropriations in the amount of \$2,662,720.00 funded by G O Bonds - General from Treasury System Upgrade, project number IS01053 to various capital improvement projects listed below.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the Fiscal Year 2013 Capital Improvement Budget be and is hereby amended by transferring allocations and appropriations from Treasury System Upgrade, project number IS01053 to the projects listed below.

GA01004	Cobblestones	A/E \$30,000 and Construction \$220,000
GS01025	Relocation of City Facilities	A/E \$10,000
GS01007	City Hall Modifications	Construction \$100,000
PK07088	Fletcher Creek Park	A/E \$30,000 and Construction \$470,000
PK07112	Highway 61 Improvements	A/E \$30,000
PK???	Woodruff Fontaine	A/E \$30,000 and Construction \$220,000?????
PK ???	Greenway Improvements	Construction \$100,000
PW01243	Nike Infrastructure Improvements	A/E \$150,000 and Construction \$670,000
PW01244	Coughlin Road Improvements	A/E \$100,000
PW04093	Main to Main Segment 5 of 5	A/E \$422,720
PW04094	Walker Avenue Streetscape	A/E \$80,000

→ this is \$25,000



Ordinance No. _____

AN ORDINANCE TO AMEND CHAPTER 34 OF THE CITY OF MEMPHIS CODE OF ORDINANCES TO ADD ARTICLE VII WHICH SHALL GOVERN THE MANAGEMENT OF PUBLIC TREES AND CREATE AND ESTABLISH A MEMPHIS TREE BOARD

WHEREAS, The City of Memphis recognizes that trees on municipally owned or leased real property and within the public street rights-of-way are valuable contributors to the city's environment having a positive economic effect on the City of Memphis by enhancing commercial and residential property values and making the City of Memphis a more attractive place to visit and do business; and

WHEREAS, Well-managed community forest resources increase in value and provide benefits to all the citizens of the community with respect to air quality, glare reduction, noise abatement, water quality, stormwater management, temperature amelioration, community aesthetics and general quality of life; these benefits being crucial to the long-term health, benefit, welfare, and safety of the citizens of the City of Memphis; and

WHEREAS, Public trees, located within public street rights-of-way and on public properties, comprise a large percentage of the urban forest, are a major capital asset of the City of Memphis, just like streets, sidewalks, stormwater management structures, sewers, public buildings and recreation facilities, and are considered a vital part of the community's infrastructure requiring the same care and maintenance as other public property; and

WHEREAS, This Council and the administration desire that the city of Memphis be designated a Tree City USA and intends to seek such recognition and take all reasonable steps to promote planting and conservation of trees throughout the city; and

WHEREAS, The City Council believes it to be in the best interest of the citizens of Memphis that this ordinance be adopted to create a Memphis Tree Board and provide a framework for the management of public trees; to provide for their enduring viability and safety, and to perpetuate the many contributions trees make to the financial, social, aesthetic and environmental well-being of the city, its residents and visitors.;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that Chapter 34 of the City of Memphis, Code of Ordinances is hereby amended to add the following Article VII which shall read as follows:

ARTICLE VII. PUBLIC TREES

Section 34-1. Definitions

Park Trees - are hereby defined as trees in City parks or City park-like areas to which the public has free access as a park.

Public Trees - are hereby defined as trees located on City property.

Tree - is hereby defined as any self-supporting woody perennial plant, having one to several main stem (trunk) and many lateral branches, extensive root system, and at maturity normally attaining a trunk diameter greater than three (3) inches at any point and a canopy height greater than 15 feet. Each category of tree should be planted in the appropriate space and environment.

- a) **Large Tree** is a tree generally expected to reach a height in excess of fifty feet at maturity.
- b) **Medium Tree** is a tree generally expected to reach a height between twenty-five (25) and fifty (50) feet at maturity.
- c) **Small Tree** is a tree generally expected to reach a height between fifteen (15) and twenty-five (25) feet at maturity.

Section 34-2. Creation and Establishment of Memphis Tree Board

There is hereby created and established the Memphis Tree Board (hereafter "Board").

(a) Duties and Responsibilities

It shall be the responsibility of the Memphis Tree Board to serve as an advisory board and recommend policies and practices to the Director of Park Services and Neighborhoods that have positive contributions to the establishment, management, enhancement, maintenance, and conservation of public trees in the city of Memphis. The Board also serves to develop and promote public awareness programs that identify the community benefits from the establishment and maintenance of public urban trees, along with nurturing private/public collaborations to fund and further promote a public tree conservation program.

(b) Board Composition and Qualifications.

The Board shall consist of seven (7) members which shall include three (3) officers: chairperson, co-chairperson, and treasurer. Each member shall be a resident of the city of Memphis and shall be appointed by the Mayor, subject to the approval of the Memphis City Council. Three (3) of the members are required to be a certified professional arborist, horticulturalist, or forester.

The majority of the board members shall recommend the appointment of a chairperson to be approved by the Director of Parks and Neighborhoods. The chairperson shall select the co-chairperson and the treasurer.

(c) Term

The term of each member shall be for a period of three (3) years. Upon the expiration of a term, a member may be reappointed as his or her successor. The Chair shall serve successive three (3) year terms, unless removed by the Mayor or in the event of a newly hired Executive Director of the Memphis Botanic Garden, such person shall complete the then existing term of the former Chair and serve successive terms thereafter. In the event of a vacancy during the term of any member, a successor shall be appointed by the Mayor, subject to the approval of the Council, to serve the remainder of such member's unexpired term.

(d) Removal

A member may be removed from the Board for continued absence from meetings or other just cause in accordance with the procedure for removal of Board or Commission members provided by the City of Memphis Charter.

Section 34-3. Public Tree Care

The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs on public property, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of the site.

Section 34-4. Tree Pruning Requirements

No person shall top any public tree. Any tree requiring pruning to ameliorate any public safety issues, to ensure the safe distribution of public energy, to remove obstruction of street lights from any lamps, or other public obstruction shall be pruned according to ANSI standards. Topping a tree shall be used only when pruning by ANSI standards fail to address the foregoing issues.

Section 34-5. Removal of Stumps

The City will utilize its best efforts and embrace the operational preference to remove tree stumps below the surface of the ground.

Section 34-6. Tree Contractor's Insurance and Bond Requirements

The City shall require individuals and companies conducting any pruning, treating or removing of Park or Public trees as defined in this ordinance to satisfy the following requirements:

A. To protect the public, the City shall require any Company or contractor which removes or maintains trees as a business on public lands to:

1. Furnish an acceptable surety bond covering the work in which they are engaged and provide proof of liability insurance satisfactory to City, upon the terms and conditions set forth in this section.
 - a. The bond shall be in a sum of 100% of the cost of the work to be performed and be executed by the applicant as principal and by a solvent corporation authorized to do business within the state of Tennessee as surety;
 - b. The bond shall be for a minimum term of one year and shall extend to cover the period of the contract with the City;
 - c. The bond shall not be canceled or terminated until at least 30 days after a notice of cancellation of the bond is received by the City Risk Manager.
 - d. The principal will at all times do all pruning, trimming and removing of trees strictly in accordance with this article;
 - e. All work will be done in a good and workmanlike manner;
 - f. The City shall be fully indemnified and held whole and harmless from any cost, expense, damages to real property or personal injury done to any person or property in the prosecution of such work that may arise out of or be occasioned in the performance of such work; and
 - g. The Company or Contractor will cause all streets, alleys and sidewalks that have been impaired in any manner to be repaired and put in the same condition as they were before the work was done.
2. Provide to the City Risk Manager an insurance policy or certificate of insurance with coverage for personal injury and property damage, including coverage for damage to trees, in amounts of not less than \$50,000.00 property damage, \$100,000 for bodily injury or death and aggregate limits of five hundred thousand dollars (\$500,000.00) for each incident or occurrence. The City shall be named as an additional insured on any such policies and certificates of insurance and the company shall agree to indemnify the City as part of any contract with the City against any loss, liability or damage resulting from performance of the contract.
3. Have at least one (1) certified arborist employed by each company operating within the city.
4. In addition, workmen's compensation insurance satisfying the statutes of the State of Tennessee shall be on file with the City Risk Manager.

5. Should any policy be canceled, the city shall be notified of such within ten (10) days after such cancellation is effective, and a provision to that effect, which shall also place upon the company writing such policy the duty to give such notice, shall be incorporated in each such policy.

Section 34-7. Penalty

Any person violating any provision of this ordinance shall be subject to a fine not to exceed \$50. The appeal of any fine imposed hereunder shall be handled in accordance with Section 1-8 of the Memphis City Code of Ordinances.

Section 34-8. Indemnification

Nothing contained in this ordinance shall be deemed to impose any liability upon the City, its officers or employees, nor to relieve the owner of any private property from the duty to keep any tree, shrub or plant upon any street tree area on his property or under his control in such condition as to prevent it from constituting a hazard or an impediment to travel or vision upon any public property or rights-of-way or public place within the city.

Section 34-9. Conflicts

Should any section, clause, or provisions of this Ordinance be declared by the Courts to be invalid, the same shall not affect the validity of the Ordinance as a whole, or parts thereof, other than the part so declared to be invalid.

Section 34-10. Severability

If any subsection, sentence, clause, provision of part of this Ordinance shall be held invalid for any reason, by a court of the competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in force and effect.

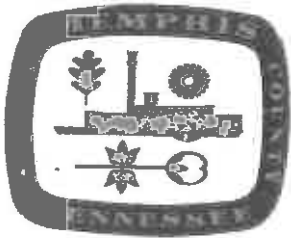
Section 34-11. Effective Date

This Ordinance is hereby declared to be of immediate necessity for the preservation of public peace, health, and safety, and shall be in full force and effective from and after its passage and publication as provided by law.

**Edmund Ford , Chairman
Memphis City Council**

ATTEST:

Comptroller



A resolution to accept an award from Nike, Inc. and Affiliates for a Community Outreach Program (COP).

WHEREAS, the City of Memphis Division of Police Services has been awarded grant funds in the amount of Ten Thousand Dollars (\$10,000.00) from Nike, Inc. and Affiliates for a Community Outreach Program; and

WHEREAS, these funds will be used to support the Memphis Police Department's efforts in implementing strategies that will strengthen relationships in the Memphis community; and

WHEREAS, it is necessary to accept the grant funding and amend the Fiscal Year 2013 Operating Budget to establish funds for the Nike Inc. and Affiliates Community Outreach Program; and

WHEREAS, it is necessary to appropriate the FY 2013 grant funds in the amount of Ten Thousand Dollars (\$10,000.00) for the Nike Community Outreach Program.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the Nike, Inc. and Affiliates – Community Outreach Program funds in the amount of Ten Thousand Dollars (\$10,000.00) be accepted by the City Of Memphis.

BE IT FURTHER RESOLVED, that the Fiscal Year 2013 Operating Budget be and is hereby amended by appropriating the Expenditures and Revenues for the Nike, Inc. and Affiliates – Community Outreach Program in the amount of Ten Thousand Dollars (\$10,000.00) as follows:

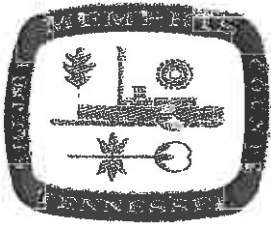
REVENUES

Nike, Inc. and Affiliates	<u>\$10,000.00</u>
Total	\$10,000.00

EXPENDITURES

Miscellaneous Materials & Supplies	<u>\$10,000.00</u>
Total	\$10,000.00

City Council Resolution Template – 8-28-12



A Resolution to accept grant funds in the amount of Three Hundred Twenty Eight Thousand, One Hundred and Nine Dollars (\$328,109.00.00) from Shelby County Government to enhance the enforcement of City of Memphis Police Department Arrest Program.

WHEREAS, the City of Memphis Division of Police Services has been awarded grant funds in the amount of Three Hundred Twenty Eight Thousand, One Hundred and Nine Dollars (\$328,109.00.00) from Shelby County Government to Encourage Arrest & Enforcement of Orders of Protection; and

WHEREAS, these funds will be used to support the Memphis Police Department Arrest Program in enforcing orders of protection; and

WHEREAS, it is necessary to accept the grant funding and amend FY 2013 Operating Budget to establish funds for the Arrest Program; and

WHEREAS, it is necessary to appropriate the 2013 grant funds in the amount of Three Hundred Twenty Eight Thousand, One Hundred and Nine Dollars (\$328,109.00.00) for the Arrest Program.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Memphis that the Arrest Program Award in the amount of Three Hundred Twenty Eight Thousand, One Hundred and Nine Dollars (\$328,109.00.00) be accepted by the City of Memphis.

BE IT FURTHER RESOLVED, that the Fiscal Year 2013 Operating Budget be and is hereby amended by appropriating the Expenditures and Revenues for the Arrest Program in the amount of Three Hundred Twenty Eight Thousand, One Hundred and Nine Dollars (\$328,109.00.00) as follows:

REVENUES

Shelby County Government	<u>\$328,109.00</u>
Total	\$328,109.00

EXPENDITURES

Full-Time Salaries	<u>\$328,109.00</u>
Total	\$328,109.00

**AN ORDINANCE TO CREATE WORK APPRENTICESHIP PREFERENCE OR
"BIDDING BONUS", INCENTIVIZE PRIVATE COMPANIES TO CREATE WORKFORCE
TRAINING PROGRAMS, AND AMEND SECTION 6-96-1 OF THE MEMPHIS CODE OF
ORDINANCES**

*****Summary of Proposed Ordinance**

The city of Memphis should incent private companies to take a strong role in workforce development. As such, the Ordinance proposes a "bidding bonus" to local companies who undertake workforce training and host a certified apprenticeship program. The Proposed Ordinance amends the local preference ordinance by adding an additional bonus for local companies that host certified training and apprenticeship programs. For background, in 2005 the city of Memphis established a local preference ordinance (Ordinance 5114) to increase the number of contracts awarded to businesses which maintain a presence in the city of Memphis. This preference gives local companies a five percent bidding bonus with respect to city contracts. Put another way, if the lowest bid for any competitive bid is from a non-local entity, all local bids are reduced by 5%. Consider this example of the city's current local preference ordinance. If a non-local company bids \$95 for a city contract and local company bids \$98 for the same contract, under the current local preference ordinance, the local company's bid is automatically lowered 5 percent. If the local company's bid becomes the lowest bid after the 5% reduction is applied (or if the local company's bid is tied with the non-local bid), then the contract is awarded to the local company. In the example, the 5% reduction would be applied and the local company's bid would be lowered to approximately \$93 and the local company would be awarded the contract. The same approach can be used to create a workforce training preference. In short, the proposed Ordinance would add an additional bonus for local companies with an eligible apprenticeship or workforce training program. If approved by the full Council, the proposed Ordinance would add an additional 5% reduction in cost, effectively making the bonus for a local company with an apprenticeship program 10% over non-local companies and 5% over local, non-apprenticed companies. This change is currently supported by MORE (the Memphis Office of Resources and Enterprises) and the United States Department of Labor Office of Apprenticeships West Tennessee Representative. Proposed Ordinance and associated changes are underlined. See attached pages.

*****Current Ordinance**

Sec. 6-96-1. - Local preference for award of city contracts.

A. *Definitions.* As used in this chapter, the following terms shall have the following meanings:

Contract means any contract, purchase order, or agreement (other than a lease or collective bargaining agreement or a contract awarded by MATA which is funded by federal moneys supplied under any federal grant program or plan), awarded by the purchasing agent, division head or his/her designee, or city agency, and whose cost is to be paid from funds belonging to or administered by the city.

Local business means that the vendor or contractor has a valid domestic type county and state business license, issued at least one year prior to bid or proposal opening date, to do business in said locality that authorizes the business to provide the goods, services, or construction to be purchased, and the physical principal business address located within the city limits, in an area zoned for the conduct of such business, from which the vendor operates or performs the majority of its business on a day-to-day basis, and also from which the vendor conducts 100 percent of the necessary functions to maintain or fulfill the contract with the city. Post office boxes are not verifiable and shall not be used for the purpose of establishing said address.

B. *Purpose and intent.* The city shall give a local preference to local businesses in the city limits in awarding city contracts and making purchases whenever the application of such a preference is reasonable in light of the dollar value of proposal received in relation to such expenditures.

1. *Local preference.*

a. In order to be eligible for the local preference, the vendor must provide a copy of the domestic county and state business license and shall also provide proof that county personal property taxes and all other necessary local business operational taxes inherent to businesses whose principal base of operations is located within the city limits were appropriately paid and/or authorize the governing bodies of each agency to release such information to the city.

b. In the bidding of, or letting contracts for procurement of supplies, materials, equipment and services, with a total price of \$10,000.00 or more, local preference shall mean that if the lowest responsive bidder is a regional or non-local business, then all bids received from responsive local businesses are decreased by five percent. The original bid is

not changed; the five percent decrease is calculated only for the purposes of determining the local preference. The local preference cost differential is not to exceed \$100,000.00.

c. In the case of request for proposal, letters of interest, best evaluated bids, qualifications or other solicitations and competitive negotiation and selection in which objective factors are used to evaluate the responses, local businesses are assigned five percent of the total points of the total evaluation points up to a maximum of five points.

d. In the event of a tie between a local business and one or more non-local business meeting specifications, the ties shall be broken in favor of the local business.

2. Local presence.

a. In the event there is no local business preference designation, either due to non-participation or non-eligibility after the five percent differential or five point assignment, then local presence will be considered for the procurement of goods and services over the amount of \$2,000,000.00.

b. Local presence will be demonstrated by the total number of individuals a business employs within the county. For procurements, a five percent differential which is not to exceed \$200,000.00 shall be granted for the business that demonstrates the highest number of total employees located within the county at the time of the bid response. For request for proposals or matters for which factors are evaluated, local presence at the time of the response will be a weighted criteria. In no event shall the local presence designation be allowed for a business with less than 25 local employees at the time of the bid response.

3. Exceptions.

a. The local business preference or presence criteria shall not apply to purchases or contracts which are funded, in whole or in part, by a governmental entity and the laws, regulations, or policies governing such funding prohibit application of the local preference, nor shall the local preference apply to purchases made or contacts let under emergency or noncompetitive situations.

b. Application of the local preference or local presence criteria to a particular purchase, contract or category of contracts for which the city is the awarding authority may be waived upon written justification and recommendation of the city to compare qualification, character, responsibility and fitness of all persons, firms, or corporations submitting bids or proposals. Further, the preference or presence criteria established herein in no way prohibit the right of the city from giving any other preference permitted by law in addition to the preference authorized herein.

(Ord. No. 5114, § 1, 2005; Ord. No. 5389, § 1, 1-18-2011)

*****Proposed Ordinance to Create Workforce Training Preference for Award of City Contracts**

Sec. 6-96-1. - Local preference and workforce training preference for award of city contracts.

A. *Definitions.* As used in this chapter, the following terms shall have the following meanings:

Contract means any contract, purchase order, or agreement (other than a lease or collective bargaining agreement or a contract awarded by MATA which is funded by federal moneys supplied under any federal grant program or plan), awarded by the purchasing agent, division head or his/her designee, or city agency, and whose cost is to be paid from funds belonging to or administered by the city.

Local business means that the vendor or contractor has a valid domestic type county and state business license, issued at least one year prior to bid or proposal opening date, to do business in said locality that authorizes the business to provide the goods, services, or construction to be purchased, and the physical principal business address located within the city limits, in an area zoned for the conduct of such business, from which the vendor operates or performs the majority of its business on a day-to-day basis, and also from which the vendor conducts 100 percent of the necessary functions to maintain or fulfill the contract with the city. Post office boxes are not verifiable and shall not be used for the purpose of establishing said address.

Apprenticeship means any registered program certified by the Tennessee Department of Labor Office of Apprenticeship that meets their standards for certification and operates primarily in the City of Memphis. Qualifying apprenticeship programs shall include, but not be limited to on-the-job training and a formal schooling component, an reasonable ratio of journeypersons to apprentices, and the ability to offer apprentices long-term positions once they complete the program. Furthermore, no program shall qualify as an apprenticeship unless at least 75% of program participants reside in the City of Memphis at the time of contract.

B. *Purpose and intent.* The city shall give a local preference to local businesses in the city limits in awarding city contracts and making purchases whenever the application of such a preference is reasonable in light of the dollar value of proposal received in relation to such expenditures. In addition, the city shall give an apprenticeship preference to local businesses in the city limits who provide workforce development through a certified apprenticeship.

1. *Local preference.*

a. In order to be eligible for the local preference, the vendor must provide a copy of the domestic county and state business license and shall also provide proof that county

personal property taxes and all other necessary local business operational taxes inherent to businesses whose principal base of operations is located within the city limits were appropriately paid and/or authorize the governing bodies of each agency to release such information to the city.

b. In the bidding of, or letting contracts for procurement of supplies, materials, equipment and services, with a total price of \$10,000.00 or more, local preference shall mean that if the lowest responsive bidder is a regional or non-local business, then all bids received from responsive local businesses are decreased by five percent. The original bid is not changed; the five percent decrease is calculated only for the purposes of determining the local preference. The local preference cost differential is not to exceed \$100,000.00.

c. In the case of request for proposal, letters of interest, best evaluated bids, qualifications or other solicitations and competitive negotiation and selection in which objective factors are used to evaluate the responses, local businesses are assigned five percent of the total points of the total evaluation points up to a maximum of five points.

d. In the event of a tie between a local business and one or more non-local business meeting specifications, the ties shall be broken in favor of the local business.

2. Apprenticeship preference

a. In order to be eligible for the apprenticeship preference, the vendor or contractor must provide proof of apprenticeship certification and must meet all eligibility requirements for local preference.

b. In the bidding of, or letting contracts for procurement of supplies, materials, equipment and services, with a total price of \$10,000.00 or more, apprenticeship preference shall mean that if the lowest responsive bidder is a non-apprenticeship business, then all bids received from responsive local apprenticeship businesses are decreased by five percent. This decrease shall be applied after, and on top of, any decrease earned through local preference. The original bid is not changed; the five percent decrease is calculated only for the purposes of determining the apprenticeship preference. The apprenticeship preference cost differential is not to exceed \$100,000.00.

c. In the case of request for proposal, letters of interest, best evaluated bids, qualifications or other solicitations and competitive negotiation and selection in which objective factors are used to evaluate the responses, apprenticeship businesses are assigned five percent of the total points of the total evaluation points up to a maximum of five points.

d. In the event of a tie between an apprenticeship business and one or more non-apprenticeship business meeting specifications, the ties shall be broken in favor of the apprenticeship business.

3. Local presence.

a. In the event there is no local business preference designation, either due to non-participation or non-eligibility after the five percent differential or five point assignment, then local presence will be considered for the procurement of goods and services over the amount of \$2,000,000.00.

b. Local presence will be demonstrated by the total number of individuals a business employs within the county. For procurements, a five percent differential which is not to exceed \$200,000.00 shall be granted for the business that demonstrates the highest number of total employees located within the county at the time of the bid response. For request for proposals or matters for which factors are evaluated, local presence at the time of the response will be a weighted criteria. In no event shall the local presence designation be allowed for a business with less than 25 local employees at the time of the bid response.

4. Exceptions.

a. The local business preference, apprenticeship preference, or local presence criteria shall not apply to purchases or contracts which are funded, in whole or in part, by a governmental entity and the laws, regulations, or policies governing such funding prohibit application of the local preference, nor shall the local preference or apprenticeship preference apply to purchases made or contacts let under emergency or noncompetitive situations.

b. Application of the local preference, apprenticeship preference, or local presence criteria to a particular purchase, contract or category of contracts for which the city is the awarding authority may be waived upon written justification and recommendation of the city to compare qualification, character, responsibility and fitness of all persons, firms, or corporations submitting bids or proposals. Further, the preference or presence criteria established herein in no way prohibit the right of the city from giving any other preference permitted by law in addition to the preference authorized herein.

(Ord. No. 5114, § 1, 2005; Ord. No. 5389, § 1, 1-18-2011)

*****Proposed Ordinance to Create Workforce Training Preference for Award of City Contracts (as Submitted to Memphis City Council)**

ORDINANCE NO. _____

AN ORDINANCE TO AMEND TITLE 6 – BUSINESS LICENSES AND REGULATIONS – , CHAPTER 6-96, SECTION 1, OF THE CODE OF ORDINANCES

WHEREAS, the Tennessee Department of Labor recognized in it's 2010 Annual Workforce Report that strong long term growth requires short-term training to ensure job openings for "every level of training and education;" and

WHEREAS, the May 2012 unemployment rate for the City of Memphis was 10%; and

WHEREAS, apprenticeship programs offer a cost-effective work development opportunity for companies to train future workers with real skills; and

WHEREAS, the City of Memphis should want private companies to take a strong role in workforce development; and

WHEREAS, one of the critical factors for sustaining growth over the next decade is to invest in workforce development; and

WHEREAS, a highly-skilled workforce makes Memphis more attractive to outside employers and provides upward mobility to Memphis residents who could both contribute more to the city tax base and invest in the local economy.

NOW, THEREFORE,

SECTION 1. BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS,

That Title 6 – Business Licenses and Regulations, Chapter 6 – 96, Section 6-96-1 of the Code of Ordinances, is hereby amended to read as follows:

Sec. 6-96-1. - Local preference and workforce training preference for award of city contracts.

A. Definitions. As used in this chapter, the following terms shall have the following meanings:

Contract means any contract, purchase order, or agreement (other than a lease or collective bargaining agreement or a contract awarded by MATA which is funded by

federal moneys supplied under any federal grant program or plan), awarded by the purchasing agent, division head or his/her designee, or city agency, and whose cost is to be paid from funds belonging to or administered by the city.

Local business means that the vendor or contractor has a valid domestic type county and state business license, issued at least one year prior to bid or proposal opening date, to do business in said locality that authorizes the business to provide the goods, services, or construction to be purchased, and the physical principal business address located within the city limits, in an area zoned for the conduct of such business, from which the vendor operates or performs the majority of its business on a day-to-day basis, and also from which the vendor conducts 100 percent of the necessary functions to maintain or fulfill the contract with the city. Post office boxes are not verifiable and shall not be used for the purpose of establishing said address.

Apprenticeship means any registered program certified by the Tennessee Department of Labor Office of Apprenticeship that meets their standards for certification, operates primarily in the City of Memphis, includes: on the job training and a formal schooling component, an acceptable ratio of journeypersons to apprentices, and the ability to offer apprentices long-term positions once they complete the program.

B. Purpose and intent. The city shall give a local preference to local businesses in the city limits in awarding city contracts and making purchases whenever the application of such a preference is reasonable in light of the dollar value of proposal received in relation to such expenditures.

The city shall also give an additional apprenticeship preference to local businesses in the city limits who provide workforce development through a certified apprenticeship in awarding city contracts and making purchases whenever the application of such a preference is reasonable in light of the dollar value of proposal received in relation to such expenditures.

1. Local preference.

a. In order to be eligible for the local preference, the vendor must provide a copy of the domestic county and state business license and shall also provide proof that county personal property taxes and all other necessary local business operational taxes inherent to businesses whose principal base of operations is located within the city limits were appropriately paid and/or authorize the governing bodies of each agency to release such information to the city.

b. In the bidding of, or letting contracts for procurement of supplies, materials, equipment and services, with a total price of \$10,000.00 or more, local preference shall mean that if the lowest responsive bidder is a regional or non-local business, then all bids received from responsive local businesses are decreased by five percent. The original bid is not changed; the five percent decrease is calculated only for the purposes of determining the local preference. The local preference cost differential is not to exceed \$100,000.00.

c. In the case of request for proposal, letters of interest, best evaluated bids, qualifications or other solicitations and competitive negotiation and selection in which objective factors are used to evaluate the responses, local businesses are assigned five percent of the total points of the total evaluation points up to a maximum of five points.

d. In the event of a tie between a local business and one or more non-local business meeting specifications, the ties shall be broken in favor of the local business.

2. Apprenticeship preference

a. In order to be eligible for the apprenticeship preference, the vendor must provide proof of apprenticeship certification and must meet all eligibility requirements for local preference. Furthermore, at least 75% of the participants in the program must reside in the city of Memphis for the program to be considered an Apprenticeship for the purposes of this preference.

b. In the bidding of, or letting contracts for procurement of supplies, materials, equipment and services, with a total price of \$10,000.00 or more, apprenticeship preference shall mean that if the lowest responsive bidder is a non-apprenticeship business, then all bids received from responsive local apprenticeship businesses are decreased by five percent. This decrease shall be applied after any decrease earned through local preference. The original bid is not changed; the five percent decrease is calculated only for the purposes of determining the apprenticeship preference. The apprenticeship preference cost differential is not to exceed \$100,000.00.

c. In the case of request for proposal, letters of interest, best evaluated bids, qualifications or other solicitations and competitive negotiation and selection in which objective factors are used to evaluate the responses, apprenticeship businesses are assigned five percent of the total points of the total evaluation points up to a maximum of five points.

d. In the event of a tie between an apprenticeship business and one or more non-apprenticeship business meeting specifications, the ties shall be broken in favor of the apprenticeship business.

3. Local presence.

a. In the event there is no local business preference designation, either due to non-participation or non-eligibility after the five percent differential or five point assignment, then local presence will be considered for the procurement of goods and services over the amount of \$2,000,000.00.

b. Local presence will be demonstrated by the total number of individuals a business employs within the county. For procurements, a five percent differential which is not to exceed \$200,000.00 shall be granted for the business that demonstrates the highest number of total employees located within the county at the time of the bid response. For

request for proposals or matters for which factors are evaluated, local presence at the time of the response will be a weighted criteria. In no event shall the local presence designation be allowed for a business with less than 25 local employees at the time of the bid response.

4. Exceptions.

a. The local business preference, apprenticeship preference, or local presence criteria shall not apply to purchases or contracts which are funded, in whole or in part, by a governmental entity and the laws, regulations, or policies governing such funding prohibit application of the local preference, nor shall the local preference or apprenticeship preference apply to purchases made or contacts let under emergency or noncompetitive situations.

b. Application of the local preference, apprenticeship preference, or local presence criteria to a particular purchase, contract or category of contracts for which the city is the awarding authority may be waived upon written justification and recommendation of the city to compare qualification, character, responsibility and fitness of all persons, firms, or corporations submitting bids or proposals. Further, the preference or presence criteria established herein in no way prohibit the right of the city from giving any other preference permitted by law in addition to the preference authorized herein.

SECTION 2. BE IT FURTHER ORDAINED, That the provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases or parts is held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

SECTION 3. BE IT FURTHER ORDAINED, That this Ordinance shall take effect from and after the date it shall have been passed by the City Council, signed by the Chairman of the Council, certified and delivered to the Office of the Mayor in writing by the Comptroller, and become effective as otherwise provided by law.

Lee Harris
Council Member

Attest:
Patrice Thomas, Comptroller